

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Riddle	Team: Squad #5	CCRB Case #: 201911062	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/03/2019 4:37 PM	Location of Incident: 45th Precinct stationhouse	Precinct: 45	18 Mo. SOL 6/3/2021	EO SOL 1/18/2022	
Date/Time CV Reported Wed, 12/04/2019 1:45 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/04/2019 1:45 PM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. SGT Dang Nguyen	02093	940509	045 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Danny Arias	09431	963378	SRG 2		
2. POM Leonidas Castroguanga	21360	959541	PSA 7		
Officer(s)	Allegation			Investigator Recommendation	
A.SGT Dang Nguyen	Abuse: Sergeant Dang Nguyen did not process § 87(2)(b)'s complaint regarding officers.				

Case Summary

On December 4, 2019, § 87(2)(b) filed this complaint by phone with the CCRB. § 87(2)(b) complained about this incident and a related prior incident, in which plainclothes officers stopped his 13-year-old son, § 87(2)(b). The prior incident was investigated under CCRB case § 87(2)(g).

On December 3, 2019, at approximately 4:37 p.m., § 87(2)(b) and § 87(2)(b) went to the 45th Precinct stationhouse. § 87(2)(b) wanted to complain about the earlier incident in which three men in plainclothes identified themselves as officers and stopped and searched his son. § 87(2)(b) spoke to Police Officers Leonidas Castroguanga and Danny Arias, both of the 45th Precinct, over the course of more than 25 minutes, and eventually Sergeant Dang Nguyen became aware of the situation. Sgt. Nguyen did not attempt to process § 87(2)(b)'s complaint, did not offer him a complaint form, and did not inform him that he could file the complaint in person at the stationhouse (**Allegation A: Abuse of Authority**, § 87(2)(g)).

The investigation obtained stationhouse surveillance footage capturing § 87(2)(b)'s conversation with officers (BR01, summarized at BR02). § 87(2)(g)

PO Arias has since been reassigned to SRG 2, and PO Castroguanga has been reassigned to PSA 7.

This case was reassigned from Inv. Andrew Ridge to the undersigned on August 24, 2020, after Inv. Ridge's departure from the CCRB.

This case was delayed by the COVID-19 pandemic, especially with regard to delays in scheduling officer interviews.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Dang Nguyen did not process § 87(2)(b)'s complaint regarding officers.

It is undisputed that § 87(2)(b) went to the 45th Precinct stationhouse with § 87(2)(b) and spoke with PO Castroguanga and PO Arias. It is further undisputed that Sgt. Nguyen was the desk officer at the time, that he was made aware that § 87(2)(b) was at the stationhouse to complain about an incident involving officers, and that he did not give § 87(2)(b) a complaint form or attempt to process his complaint.

§ 87(2)(b) provided testimony when he filed the complaint (BR13), in an initial phone statement (BR14), and during a sworn interview (BR03). § 87(2)(g). § 87(2)(b) He recounted that he brought his son to the stationhouse to find out why officers had stopped and searched him. He first described the incident to PO Arias, including that the men who stopped his son were dressed in plainclothes, wore dark blue vests which read "police," and had an unmarked black SUV. PO Castroguanga also eventually became involved in the conversation. PO Arias left to speak to a sergeant, and then returned to say that he did not think the subjects were actually police officers. He also noted that the 45th Precinct's Anticrime officers had not yet gone on patrol that day. § 87(2)(b) argued to PO Arias that he believed the subjects were officers. He also noted incidentally to PO Arias that he should prepare a criminal impersonation report about the incident if he thought the subjects were civilians pretending to be officers, but PO Arias said the incident did not rise to the level of such a report. PO Arias left again to go to the main desk. When he returned, he said that he had spoken to a sergeant and wrote

Sgt. Nguyen's name and IAB's phone number on a piece of paper for § 87(2)(b) § 87(2)(b) could not describe Sgt. Nguyen and testified that he never spoke to Sgt. Nguyen during his time at the stationhouse. § 87(2)(b) called IAB afterward was told that the officers should have accepted his complaint at the stationhouse. He filed a complaint with the CCRB by phone the following day, and then returned to the stationhouse two days later and filed a criminal impersonation report. PO Tom from the 45th Precinct later called IAB to notify them of § 87(2)(b)'s complaint (BR15).

§ 87(2)(b) § 87(2)(g) recounted that PO Arias said the subjects could have been impersonators and gave his father a phone number to call.

The stationhouse surveillance footage (BR01, beginning at approximately 37:20) confirms that PO Arias spoke to § 87(2)(b) for approximately four minutes, briefly left and then returned, and wrote something on a card or paper. PO Castroguanga joined about two minutes later and also spoke to § 87(2)(b). PO Arias left again, for approximately seven minutes, before returning and handing a small piece of paper to § 87(2)(b). The footage ends before § 87(2)(b) and his son left the stationhouse.

The command log contains no entries documenting § 87(2)(b)'s visit to the stationhouse (BR08).

PO Arias was not interviewed until approximately 14 months after the incident, and he had only a vague recollection (BR04). He recalled speaking with § 87(2)(b) and eventually referring them to a supervisor after he was unable to get enough information from him. PO Arias emphasized that he was not the officer handling this situation and that he was assisting PO Castroguanga with it. PO Arias testified generally that he would refer a civilian to a supervisor or the CCRB if he or she asked to file a complaint about officers, and that he knew he would not "point anyone in the wrong direction," so he felt certain that he did not refuse to process such a complaint from § 87(2)(b).

PO Castroguanga was not interviewed until approximately 17 months after the incident (BR05). He had no recollection of the incident, and his recollection was not refreshed by the surveillance footage. He testified generally that he would direct any civilian who wanted to file a complaint against officers to a supervisor, the desk officer, or the CCRB.

Sgt. Nguyen also was not interviewed until approximately 14 months after the incident (BR06). § 87(2)(g) Sgt. Nguyen recounted that he spoke personally to § 87(2)(b) in the stationhouse vestibule after another officer sought him out. He recalled that § 87(2)(b) recounted an incident to him in which plainclothes officers stopped his son, and that he told § 87(2)(b) that the 45th Precinct did not have any plainclothes officers out on patrol at that time and that his descriptions of the subjects did not match any of the 45th Precinct's officers. Sgt. Nguyen claimed that § 87(2)(b) seemed satisfied with that information. He asked § 87(2)(b) if he needed anything else, and § 87(2)(b) and his son left the stationhouse shortly afterward. Sgt. Nguyen could not recall if § 87(2)(b) ever said that he wanted to file either a complaint against officers or a crime report regarding impersonation. He also could not recall if § 87(2)(b) ever provided any specific reason for why he had come to the stationhouse, and he could not recall if he ever asked § 87(2)(b) if he wanted to file a complaint about the incident.

Sgt. Nguyen accurately testified during his interview that the procedure for responding to a civilian who comes to a stationhouse with an allegation against officers is to tell the civilian that he or she can make a complaint in person, by phone, or on the internet. He also noted that signs bearing that information are posted in the stationhouse. Sgt. Nguyen also testified that he was aware that the subjects could have been NYPD officers from commands other than the 45th Precinct. He noted that

he thought the subjects may have been officers from an entirely different law enforcement body. He also testified that he was aware that § 87(2)(b) and his son returned to the stationhouse at some later date and ultimately an officer assisted them in filing a complaint by phone with the CCRB.

Despite Sgt. Nguyen's testimony that he spoke with § 87(2)(b) directly, neither § 87(2)(b) nor § 87(2)(b) testified to having spoken with Sgt. Nguyen or any supervisor, and neither was able to describe Sgt. Nguyen. The available surveillance footage did not show Sgt. Nguyen becoming personally involved with § 87(2)(b). In addition, both § 87(2)(b) and § 87(2)(b) were interviewed less than a month after the incident, while Sgt. Nguyen was not interviewed until more than a year afterward. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Patrol Guide Procedure 207-31 requires that officers interview any complainant who appears in person at a stationhouse and alleges misconduct by officers, and that they must have the complainant fill out a civilian complaint report (BR07). Moreover, when a complainant is present in any police facility but does not want to immediately make a complaint, officers must provide him or her with a civilian complaint report form, and must advise him or her that the complaint can be filed in person, by phone, or by mail. In addition, officers must provide the complainant with the CCRB Intake Unit's phone number, and the desk officer must immediately make a command log entry with the complainant's name, physical description, and any other pertinent information.

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- § 87(2)(b), § 87(2)(g)
- Sgt. Dang Nguyen has been a member of the NYPD for 15 years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On May 21, 2021, the undersigned requested a copy of any Notice of Claim filed with the NYC Comptroller's Office regarding this incident. The response will be added to the case file upon receipt (BR11).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 5

Investigator: Angel Riddle Inv. Angel Riddle November 15, 2021

CCRB Case # 201911062

Signature

Print Title & Name

Date

Squad Leader: *Daniel Giansante*
Signature

IM Daniel Giansante
Print Title & Name

November 15, 2021
Date

Reviewer: _____
Signature

Print Title & Name

Date